

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

HERSHEL McCRADIC,
Petitioner,

v.

Case No. 14-C-1487

MICHAEL MEISNER, Warden,
Redgranite Correctional Institution,
Respondent.

DECISION AND ORDER

Hershel McCradic has filed this habeas petition pursuant to 28 U.S.C. § 2254 and challenges a state-court judgment of conviction entered in May 2004. Before I may proceed with this case further, I must be satisfied that I have subject matter jurisdiction. When McCradic filed his present petition, the Clerk of Court notified me that he had filed a previous case in this court in which he sought a writ of habeas corpus under 28 U.S.C. § 2254. See McCradic v. Pollard, E.D. Wis. Case No. 11-C-0182 (filed Feb. 17, 2011). That habeas petition challenged the same judgment of conviction as the present petition, and it was adjudicated on the merits and denied on August 24, 2011. Thus, the present petition is a "second or successive habeas corpus application under section 2254" within the meaning of 28 U.S.C. § 2244(b). Under § 2244(b)(3)(A) and the cases interpreting it, a district court lacks jurisdiction to entertain a second or successive habeas petition unless the court of appeals has first approved its filing. See Pavlovsky v. VanNatta, 431 F.3d 1063, 1064 (7th Cir. 2005). Because McCradic has not obtained such approval from the court of appeals, I lack jurisdiction to consider the present petition and will dismiss it for lack of subject matter jurisdiction. Should petitioner wish to pursue this matter further,

he must make a request to file a second or successive application for habeas relief with the United States Court of Appeals for the Seventh Circuit pursuant to Circuit Rule 22.2.

For the reasons stated, **IT IS ORDERED** that this case is **DISMISSED** for lack of subject matter jurisdiction. The Clerk of Court shall enter final judgment. Pursuant to Rule 11 of the Rules Governing § 2254 Cases, I find that the petitioner has not made the showing required by 28 U.S.C. § 2253(c)(2), and therefore I will not issue a certificate of appealability.

IT IS FURTHER ORDERED that petitioner's request to proceed in forma pauperis is **DENIED** as **MOOT**.

Dated at Milwaukee, Wisconsin, this 12th day of December, 2014.

s/ Lynn Adelman

LYNN ADELMAN
District Judge